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SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2010 JAN 22 AM 8:36

JEANNE HICKS, CLERK

BY: N. Sequi

11 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
12 IN AND FOR THE COUNTY OF YAVAPAI

13 STATE OF ARIZONA,

14 Plaintiff,

15 vs.

16 STEVEN CARROLL DEMOCKER,

17 Defendant.

) No. P1300CR20081339

) Div. 6

) **REPLY IN SUPPORT OF**
) **DEFENDANT'S MOTION TO**
) **COMPEL STATE TO RESPOND**
) **TO DISCOVERY REQUESTS**

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19
20 Defendant Steven DeMocker, by and through counsel, hereby respectfully
21 requests that this Court grant his Motion to Compel the State to Respond to Discovery
22 Requests and Order compliance by January 25, 2010.

23 With three and one-half months until trial the State's response to the defense
24 motion to compel is that it will disclose the requested information "in due course" or "as
25 soon as this is accomplished." The charges in this case have been pending for over 15
26 months and the State's disclosure obligations are now past-due several times over. The
27 defense is not able to prepare a defense, work with its experts, or prepare for trial when
28

1 the State treats its disclosure obligations with the "we're doing the best we can" attitude.
2 This is particularly egregious where the State is seeking the death penalty against Mr.
3 DeMocker and the due process requirements are heightened in a capital case.
4

5 **1. Criminal history of witnesses, cell phone data and expert access, Rule**
6 **15.1 compliance re experts, indexing systems request, and DPS disclosure**

7 The Court should order the State to provide the criminal history of its witnesses,
8 the 15.1 compliance regarding all disclosed experts, release of the cell phones to the
9 defense expert, provision of requested cell phone data, the response to the indexing
10 systems request, and the requested DPS disclosure by no later than January 25, 2010.
11 The State's response as to each of these items is that it will comply eventually. There is
12 simply no excuse (and none even offered by the State) for why the State should not be
13 in a position to immediately comply with these requests given the short time remaining
14 until trial and given that each of these requests has now been pending for well over a
15 month, and in some cases several months. Each of these requested items is required
16 under Rule 15.1 and each is necessary for Mr. DeMocker to prepare for trial.

17 **2. YSCO Reports**

18 With respect to the YSCO Supplemental Reports, this Court should order the
19 State to finalize and produce all pending YSCO Supplemental Reports by January 25,
20 2010 or prohibit the use of these items and any testimony to which they relate. The
21 defense has received in excess of 10 interviews with no corresponding reports. The last
22 report received from the YSCO is September 29, 2009. With trial less than four months
23 away, the State should be directed to finalize and disclose any and all pending reports.

24 **3. Statements of the Defendant and Jail Calls**

25 The State's response indicates that it intends to rely on all of Mr. DeMocker's
26 recorded jail conversations. The State has disclosed over 2,700 recorded conversations
27 of Mr. DeMocker. These conversations are only produced electronically and the State
28

1 has not provided any transcripts of these calls. The defense has only had some of these
2 calls transcribed and thus far has over 25,000 pages of jail call transcripts. This volume
3 does not include any calls from August through the end of 2009.

4 To date the State has not disclosed any summaries, police reports or other
5 information regarding its review of these calls or identified which, if any, of these calls
6 it intends to rely upon at trial. The State's disclosure obligation under Rule 15.1
7 requires it to identify papers, documents, photographs or tangible objects "that the
8 prosecutor intends to use at trial." Ariz. R Crim. P. 15.1(b)(5). The obligations also
9 include listing which of these items the prosecutor intends to use to support each
10 identified aggravating circumstance. *Id.* at 15.1(i)(3)(c). With less than four months to
11 trial, the State has failed to comply with these obligations.

12 The defense requests that the Court order the State to identify which, if any, jails
13 calls it intends to rely upon at trial, to list which items it intends to use to support each
14 alleged aggravating circumstance, and to produce to the defense any reports, summaries
15 or other documents or communications regarding its review of these calls.

16 **CONCLUSION**

17 Defendant Steven DeMocker, by and through counsel, hereby requests that this
18 Court order the State to provide the requested disclosure no later than January 25, 2010.

19 DATED this 22d day of January, 2010.

20
21
22 By: _____

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ORIGINAL of the foregoing filed
this 22d day of January, 2010, with:

Jeanne Hicks
Clerk of the Court
Yavapai County Superior Court
120 S. Cortez
Prescott, AZ 86303

COPIES of the foregoing hand delivered
this 22d day of January, 2010, to:

The Hon. Thomas B. Lindberg
Judge of the Superior Court
Division Six
120 S. Cortez
Prescott, AZ 86303

Joseph C. Butner, Esq.
Yavapai County Courthouse basket


